

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SONIA NOVAS,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

22-cv-1020 (MKV)

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

MARY KAY VYSKOCIL, United States District Judge:

Sonia Novas commenced this action against the Commissioner of the Social Security Administration, pursuant to the Social Security Act, 42 U.S.C. § 405(g), seeking review of the Commissioner's decision that Novas is not entitled to Disability Insurance Benefits under Title II of the Social Security Act. The Court referred the case to Magistrate Judge Moses. [ECF No. 12]. Novas filed a motion for judgment on the pleadings, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, seeking remand of the case for a further hearing. [ECF Nos. 15, 16]. The Commissioner filed a cross-motion for judgment on the pleadings, asking the Court to affirm the Commissioner's decision. [ECF Nos. 19, 20].

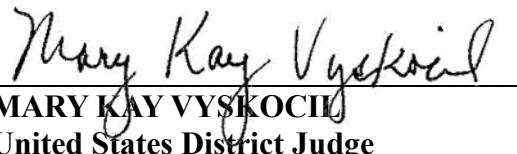
Magistrate Judge Moses issued a Report and Recommendation, which recommended that the Court grant Novas's motion, deny the Commissioner's motion, and remand this case. [ECF No. 22]. No party timely filed any objections to the Report and Recommendation, nor has the Court received any untimely objections.

In reviewing a magistrate judge's report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). The Court reviews a report and recommendation to which no objections are filed for clear error. *See* Fed. R. Civ. P. 72; *Colvin v. Berryhill*, 734 F.

App'x 756, 758 (2d Cir. 2018); *Edwards v. Fischer*, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006). The Court has reviewed the Report and Recommendation and finds it to be well reasoned and grounded in fact and law. In short, Magistrate Judge Moses correctly concluded that remand is required because the Administrative Law Judge (“ALJ”) did not consider Novas’s mental impairments in formulating a residual functional capacity determination, did not take into account the skill level required to perform her past relevant work, and did not ask the Vocational Expert whether she was capable of performing her past work given the limitations on her mental functioning. Accordingly, the Report and Recommendation is adopted in its entirety and the case is remanded for further proceedings consistent with the Report and Recommendation.

SO ORDERED.

Date: March 23, 2023
New York, NY


MARY KAY VYSKOCIL
United States District Judge